

REMARKS

Applicants acknowledge receipt of a final Office Action dated March 6, 2008. This communication is accompanied by a Request for Continued Examination under 37 C.F.R. § 1.114 and fulfills the requirement for a “submission” under 37 C.F.R. § 1.114(c). Reconsideration of the present application is respectfully requested.

I. Examiner Interview Summary

Applicants thank the Examiner for his time to conduct the telephone interview on October 16, 2008. The Interview Summary mailed on October 21 is accurate in that discussions focused on the distinctions between the present invention and those in the prior art, namely EP 0 719 549, and that the following amendments were discussed: (a) that the composition is homogeneous; (b) that the gel matrix has from 20-97% water, rather than requiring it to be able to absorb that amount of water.

The Interview summary is partially accurate in that discussions did include incorporating claim 8 into claim 1, but such a characterization does not reflect the full scope of discussions concerning the dependent claims, which included *e.g.* claim 6. The Interview Summary is inaccurate in listing Simon Elliott as participating in the interview, instead of Christian M. Bauer.

II. Status of the claims

Claims 1-5 and 7-47 are pending. Claims 1 and 7 are amended, and claim 6 is cancelled.

Claim 1 was amended to recite the limitations of claim 6, now cancelled. Claim 1 was also amended to expressly recite the water content in the composition. Finally, Claim 1 was amended to clarify that that composition of the invention is a homogenous composition comprising the nanoparticles of the active agent dispersed throughout the gel matrix. Support for this amendment is found, for example, at paragraphs [0148] and [0154].

III. Arguments

Even if combined, the references do not teach each and every limitation of the claims.

1. The polyalkylene of EP 0 719 549 ("EP 549") is not natural gelatin, a semi-synthetic gelatin, or a synthetic gelatin, as recited in claim 1.
2. The drug substance of '549 is not homogenized throughout the soft gelatin capsule (even if the Examiner assumed that the soft gelatin capsule can be any of the gelatins as recited in claim 1).

CONCLUSION


Applicants respectfully believe that all rejections have been rendered moot, accommodated, or overcome, and respectfully request that the Examiner reconsider and withdraw the present rejections, and allow the pending claims. As Applicants believe that the pending claims are in condition for allowance, Applicants also request that the Examiner rejoin and examine the withdrawn claims.

If it is believed that telephone communication can expedite the prosecution of this application, the Examiner is invited to contact the undersigned at the number below.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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